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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,729	12/11/2000	Katsuei Tanabe	2000-1686A	2321

7590

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EXAMINER

MEREK, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/21/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/732,729

Applicant(s)

TANABE ET AL. *cn*

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/12/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Drawings***

The proposed drawing correction of Figs. 1, 3, 4, and 6 has been approved.

The proposed drawing correction of Fig. 7 has been disapproved since it adds new matter to the disclosure. There is no support for the size, shape, and the location of the "continuous ring".

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the protrusion is a continuous ring" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Since the proposed drawing correction (Fig. 7) has not been entered, the drawing objection has been maintained.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The amendment filed 8/27/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the container body cannot be supported in an upright position by said rounded distal end when said rounded distal end is placed on a support surface.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 26-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 26, it has not been adequately disclosed that the container body cannot be supported in an upright position by said rounded distal end when said rounded distal end is placed on a support surface. The specification does not discuss or describe this function. The remaining claims are included since they stem from rejected claims.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26 and 32-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Zeman. Regarding claim 26, the container has a distal end that is rounded. The bottom or distal end of the container is round which meets the limitation rounded. Regarding

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claims 32, 36, and 38, see Fig. 1 of Zeman where the container is held off the support surface. Regarding claims 33 and 37, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claims 34 and 39, the protrusion is a continuous ring. Regarding claim 35, see Col. 2, see Zeman, lines 41-45, where the ring can be discontinuous.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 and 32-39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zeman in view of Hicks (US 6,024,244). Regarding claim 26, to the degree Zeman does not teach the rounded distal end, Hicks teaches a similar container with a supplemental support member with a rounded distal end. It would have been obvious to employ the rounded distal end of Hicks in the container of Zeman to prevent accidental drowning when the container is not in use as taught by Hicks. Regarding claims 32, 36, and 38, see Fig. 1 of Zeman where the container is held off the support surface. Regarding claims 33 and 37, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claims 34 and 39, the protrusion is a continuous ring. Regarding claim 35, see Col. 2, see Zeman, lines 41-45, where the ring can be discontinuous.

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Claims 26, and 32-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer (US 4,865,199) in view of Zeman (US 3,371,819) and further in view of Amberg 2,672,742). Zimmer does not teach the at least one protrusion. Zeman teaches a similar container with a protrusion for securing the base to the container. It would have been obvious to employ the protrusion of Zeman in the cup of Zimmer to provide an alternative means for securing the cup on the container. Moreover, it would have been obvious to employ the protrusion of Zeman in the cup of Zimmer to removably attach the base to the container as taught by Zeman. To the degree that the modified container Zimmer does not teach the rounded distal end, Amberg as seen in Figs. 1-6, teaches a container in a support with a rounded distal end. It would have been obvious to employ the rounded distal end Amberg in the modified container of Zimmer to make it easier to stir the contents as taught by Amberg. Regarding claims 32, 36, and 38, the modified container of Zimmer does not teach the container being held off the support surface. Zeman teaches that the container can be held off the support surface. It would have been obvious to employ this structure in the modified container of Zimmer to prevent condensation on the support surface or to provide an alternative way to support the container. Regarding claims 33 and 37, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claims 34 and 39, the protrusion is a continuous ring. Regarding claim 35, see Col. 2, lines 41-45, where the ring can be discontinuous.

Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer in view of Zeman and Amberg as applied to claim 26 above, and further in view of Sequin (US 4,210,272). Regarding claim 27, the modified container of Zimmer does not teach the lid for hermetically sealing the container body. Sequin teaches a lid for a container similar to Zimmer. It would have been obvious to employ the lid of Sequin in the modified container of Zimmer to protect the contents. Regarding claim 28, the modified container of Zimmer does not teach the container being held off the support surface. Zeman teaches that the container can be held off the support surface. It would have been obvious to employ this structure in the modified container of Zimmer to prevent condensation on the support surface or to provide an alternative way to support the container. Regarding claim 29, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claim 30, the protrusion is a continuous ring. Regarding claim 31, see Col. 2, lines 41-45, where the ring can be discontinuous.

Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeman in view of Hicks as applied to claim 26 above, and further in view of Sequin. Regarding claim 27, Zeman does not teach the lid for hermetically sealing the container. Sequin teaches a lid for a container similar to Zeman. It would have been obvious to employ the lid of Sequin in the modified container of Zeman to protect the contents. Regarding claim 28, see Fig. 1 of Zeman, where the container is held off the support surface. Regarding claim 29, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end.

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Regarding claim 30, the protrusion is a continuous ring. Regarding claim 31, see Zeman, Col. 2, lines 41-45, where the ring can be discontinuous.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rausing et al has been cited for teaching containers with supports that can have either flat or rounded bottom ends.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

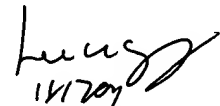
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM

November 16, 2003



LEE YOUNG

SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700